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In re Application of	:	
XIA, Menghang et al.	:	
Application No.: 10/530,830	:	DECISION
PCT No.: PCT/US03/31822	:	
Int. Filing Date: 09 October 2003	:	ON PETITION UNDER
Priority Date: 10 October 2002	:	
Docket No.: 21113P	:	37 CFR 1.10(d)
For: ASSAY METHODS FOR STATE-	:	
DEPENDENT CALCIUM CHANNEL	:	
AGONISTS/ANTAGONISTS	:	

This decision is in response to applicant's petition under 37 CFR 1.10(d), filed in the United States Patent and Trademark Office on 06 September 2006.

BACKGROUND

On 06 July 2006, the Office mailed Decision On Petition Under 37 CFR 1.10(c) and (d) dismissing applicants' petitions without prejudice and setting a two month period for reply.

On 06 September 2006, applicant submitted this renewed petition under 37 CFR 1.10(d).

DISCUSSION

Applicant requests that the receipt date of application No. 10/530,830 be amended to 08 April 2005. Applicant claims that it was deposited with USPS on 08 April 2005, but was given a "date-in" of 09 April 2005.

37 CFR 1.10(d) states:

(d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
- (3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for

that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Items (1), (2) and (3) have been satisfied. The petition was promptly filed, the Express Mail mailing label number was affixed to the correspondence prior to deposit with USPS and the pickup receipt and corporate account information from USPS support applicants' assertion that the package was deposited with USPS on the requested date.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(d) to correct the receipt date of the filing to 08 April 2005 is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed 27 September 2005 is **VACATED**.

The application is being referred to the National Stage Processing Branch of the Division of PCT Operations for further action consistent with this decision, including the mailing of a corrected Notification of Acceptance and filing receipt. The application has a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of 08 April 2005.



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